

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARIUS T. HAMMOND,

Plaintiff,

v.

STEPHANIE LOUISE ROBERTS,

Defendant.

No. 3:23-cv-05300-DGE

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, Chief United States Magistrate Judge. (Dkt. No. 5.)

Plaintiff filed an application to proceed in forma pauperis (Dkt. No. 1) and a proposed complaint (Dkt. No. 1-1) on April 7, 2023. Plaintiff’s complaint names prosecutor Stephanie Louise Roberts as the sole defendant. (Dkt. No. 1-1.) Plaintiff contends Roberts violated his rights under the Fourth and Thirteenth Amendments by filing charges against him even though he was innocent. (*Id.* at 3.) Plaintiff seeks monetary damages. (*Id.* at 5.)

On April 13, 2023, Judge Christel issued an R&R recommending the Court deny Plaintiff’s in forma pauperis application and dismiss Plaintiff’s claim without prejudice as frivolous and for failure to state a claim. (Dkt. No. 5.) Judge Christel found Plaintiff had failed to state a claim upon which relief could be granted because Roberts was entitled to absolute prosecutorial immunity from liability for damages under 42 U.S.C. § 1983. (*Id.* at 3.) Judge Christel therefore found Plaintiff’s proposed complaint was frivolous and entirely without merit,

1 and recommended that Plaintiff's application to proceed in forma pauperis be denied. (*Id.* at 3–
2 4.) Judge Christel further found any attempt by Plaintiff to amend the proposed complaint would
3 be futile. (*Id.* at 3.)


4 On April 26, 2023, Plaintiff filed objections to the R&R. (Dkt. No. 8.) In his objections,
5 Plaintiff re-stated his claim that he was arrested for crimes he did not commit, and stated his
6 desire to sue for malicious prosecution and unlawful imprisonment. (*Id.* at 2.) Plaintiff argues
7 the charges against him were ultimately dismissed. (*Id.* at 12–13.)

8 Plaintiff's objections do not address the question of prosecutorial immunity as it relates to
9 his federal claims, which would be the sole basis for jurisdiction before this Court. *See generally*
10 18 U.S.C. § 1331. To the extent Plaintiff's proposed complaint includes claims of malicious
11 prosecution or unlawful imprisonment based on state law, they are state claims and do not
12 provide this Court with subject matter jurisdiction.
13

14 The Court having considered the R&R, Plaintiff's objections and the remaining record,
15 does hereby find and order as follows:
16

- 17 (1) The R&R is ADOPTED (Dkt. No. 5);
18 (2) Plaintiff's application to proceed in forma pauperis (Dkt. No. 1) is **DENIED** and
19 the case is **DISMISSED** without prejudice as frivolous and for failure to state a
20 claim; and
21 (3) The Clerk shall enter **JUDGMENT** and close this case.

22 **DATED** this 17th day of May, 2023.

23 
24 _____
25 David G. Estudillo
26 United States District Judge